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**WTO ARBITRATOR DECIDES EU MUST COMPLY WITH WTO
OBLIGATIONS AND REMOVE BEEF HORMONE BAN BY MAY 1999**

The United States Trade Representative applauded a WTO arbitrator's decision requiring prompt compliance by the European Union (EU) with WTO recommendations pertaining to the EU's import ban on meat produced using growth-promoting hormones. In rejecting EU arguments that the required compliance should be deferred until additional scientific studies could be completed, the arbitrator required that EU implementation must be completed by no later than May 13, 1999. This decision follows the WTO's February 1998 findings that the EU's ban is inconsistent with its obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement).

The arbitrator found that the period for implementation should not set aside time for additional risk assessments to be concluded. The arbitrator's decision sends an unmistakable message that the time for delay is over.

"Withdrawal of the EU hormone ban is the only way to bring EU directives into compliance with its WTO obligations," Ambassador Barshefsky said. "There is no convincing or rational basis for the bans. The EU import prohibition was not based on a risk assessment in accordance with the provisions of the SPS Agreement." She added, "We expect that the EU will now take the necessary steps to bring its policies into compliance with WTO obligations by moving to lift the ban on beef from the United States and other affected countries. We stand ready to work with EU officials toward resuming normal trade in this area as soon as possible and will continue to monitor EU implementation of the WTO decisions to ensure timely compliance."

The arbitration decision, resulting from an EU request that a WTO arbitrator determine the period available to the EU to implement the conclusions reached by the WTO earlier this year, shows once again that the WTO dispute settlement system can handle complex and difficult disputes. The arbitration ruling is an important reaffirmation of principles significant to both the WTO dispute settlement system and the SPS Agreement. By emphasizing that prompt compliance with DSB recommendations is essential and that delays in implementation will not be accepted, the

arbitration award reinforces the rights of WTO Members to prompt remedies where WTO obligations have been abrogated.

Background

In this dispute, the United States challenged the EU ban on imports of animals and meat from animals which were administered any of six hormones for growth promotion purposes. At the request of the United States, the WTO Dispute Settlement Body (DSB) established a panel on May 20, 1996. Canada also requested a panel, which was established on October 16 and was comprised of the same panelists as in the U.S. case. The final report, released on August 18, 1997, found that the EU ban violates the EU's obligations under the SPS Agreement. The panel report found that the EU ban is not based on scientific evidence and is not based on a risk assessment or on the relevant international standards. On September 24, the EU filed a notice of appeal.

The appellate report was issued on January 16, 1998. The Appellate Body ("AB") found that the EU's ban on importation of beef from cattle treated with growth promotion hormones is not consistent with the EU's obligations under the SPS Agreement. The AB report concluded that the EU measure failed to satisfy the requirements of Articles 3.3 and 5.1 of the SPS Agreement because the risk assessments that had been performed did not support the ban. The Appellate Body found that while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement, including the requirement for a risk assessment that supports the sanitary measure, as well as sufficient scientific evidence.

At its February 13, 1998 meeting, the WTO Dispute Settlement Body adopted the Appellate Body and Panel reports on hormones. Under Article 21 of the Dispute Settlement Understanding, the EU was required to state its intentions in respect of the implementation of the recommendations and rulings of the DSB. The EU indicated at the DSB meeting on March 13 that it intended to comply with its WTO obligations. Article 21.3 provides that if it is "impracticable" for a WTO Member to comply immediately with the recommendations of the DSB, the Member shall be permitted a reasonable period of time within which to implement. When the EU, Canada, and the United States could not agree on a time period for implementation, the EU resorted to binding arbitration to obtain a decision.